

REMARKS/ARGUMENTS

Claims 1-14, 17-28, 30, 32 and 33 remain in this application.

Although the Office Action Summary mailed September 18, 2007 indicates that claims 15, 16, 29 and 31 are "withdrawn", applicant notes that these claims were previously canceled.

1. Rejection of Claims 1-14, 17, 18, 22-28, 30 and 33 Under 35 USC 102(b)

Claims 1-14, 17, 18, 22-28, 30 and 33 stand rejected under 35 USC 102(b) as being anticipated by Janiak et al. (U.S. Patent Application Publication No. 2002/0030581 A1; referred to herein as "Janiak").

With respect to claim 1, the Examiner asserts that:

...Janiak discloses a biometric data card (fig 1 [16]), comprising: an image sensor for capturing an image of a biometric feature of a user. . . (fig 1 [16], also, par. [0027]);. . .

9/18/2007 Final Office Action, p. 2., sec. 3.

Applicant respectfully disagrees. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). With respect to claim 1, the Examiner has not demonstrated where Janiak discloses "a biometric data card, comprising: an image sensor".

In support of where Janiak discloses a biometric data card comprising an image sensor, the Examiner refers to element 16 of Janiak's FIG. 1, and Janiak's par. [0027]. However, element 16 is merely described as a "data card". See, Janiak, p. 2, par. [0027]. Janiak also teaches, in par. [0027], that:

...Data card 16 can come in any form that is capable of storing fingerprint data for an enrollee. An enrollee is a potential user of the device who has gone

through an enrollment process, or the process of collecting biometric samples from a person and storing data from the biometric samples on the data card for comparison to the end user's biometric sample data. Data card 16 can be an optically read card where data from a single (or multiple) fingerprint image(s) is/are contained within a 2D barcode symbol (such as PDF 417) printed on a plastic card. This finger image data is capable of being optically read from the data card. Data card 16 can also be, for example, a memory card that includes a memory chip 18 embedded within the card. Typically, the memory or smart card is capable of storing more information than the optically read data card, and also permits the writing of transactional data to the chip while the data card is inserted. The data can be downloaded later to another central location for the particular application. The data can then be erased from the memory card, thereby freeing up space for additional information storage. *Additionally, the data card can be a smart card, where transactional data can be collected and stored, but it can also be processed and used directly by the smart card in particular applications. Therefore, a card that is read-only, read-and-write, or read-write-transactional is contemplated by data card 16.*

(Emphasis added).

Nowhere in the above excerpt (or elsewhere) does Janiak indicate that the data card 16 comprises an image sensor.

In responding to applicant's previous arguments, the Examiner asserts that the last two sentences in Janiak's par. [0027], italicized *supra*, stand for the proposition that Janiak's data card 16 "is fully capable of acquiring, storing and processing biometric user data separate from and independent of the terminal (fig. 1 item 10)". See, 9/18/2007 Final Office Action, p. 7, sec. 6. Applicant respectfully disagrees.

To begin, Janiak's par. [0027] only teaches that "transactional data" can be stored on a memory or smart card. It is not clear what the "transactional data" includes, and it is not clear whether "transactional data" is equivalent to, or includes, "fingerprint data". Janiak is silent on this point, and therefore provides no teaching in this respect. Of note, Janiak's par. [0027] is the only paragraph that mentions the storage of "transactional data" on a smart or memory card.

Next, applicant notes that Janiak teaches a memory or smart card that "permits the writing of transactional data to the chip **while the data card is inserted.**" See, Janiak's par. [0027], *supra*. The device into which the data card 16 is inserted is presumably the "biometric device 10" (FIG. 1; par. [0027]) or "another central

location" (par. [0027]). Janiak does not teach that the data card 16 can be used apart from a host device (e.g., the biometric device 10 or central location), and Janiak does not teach that fingerprint data can be acquired via an "image sensor" on the data card 16. In fact, the only image sensor disclosed by Janiak is the "fingerprint sensor 26" on the "biometric device 10". See, e.g., Janiak's FIG. 1 and par. [0028]. Janiak does not teach or suggest the placement of the fingerprint sensor 26 in any other location (and particularly, Janiak does not teach the incorporation of the fingerprint sensor 26 on the data card 16).

For the above reasons, applicant believes Janiak is unable to support a 35 USC 102b rejection (or even a 35 USC 103 rejection) of claim 1.

With respect to claim 2, the Examiner asserts that Janiak's pars. [0027] and [0039] teach "an interface operable to transmit the authentication information from the biometric data card to a terminal". Applicant respectfully disagrees.

As recited in claim 2, "authentication information" is what is generated by a "processor" of a biometric data card, in response to a comparison of 1) "first image data" captured by an image sensor of the biometric data card, and 2) "second image data" stored in a memory of the biometric data card. Referring now to Janiak's teachings, Janiak's par. [0027] only teaches that "transactional data" can be read from, or written to, a data card 16. Janiak's par. [0039] generally describes how an authentication operation can be performed using fingerprint data stored on the data card 16. Nowhere does Janiak indicate that an authentication operation is performed by a processor on the data card 16, or that "authentication information" is transmitted "from the biometric data card to a terminal". Claim 2 is therefore believed to be allowable for this additional reason (and because it depends from claim 1).

Claims 3 and 4 are believed to be allowable, at least, for the same reasons that claims 1 and 2 are believed to be allowable.

With respect to claim 5, the Examiner asserts that Janiak's par. [0027] teaches a biometric data card having an "optical element for transferring the image to said image sensor". Applicant respectfully disagrees. Although Janiak teaches a "biometric device 10" having a "fingerprint sensor 26", applicant cannot find any teaching by Janiak that the data card 16 comprises an "optical element".

Furthermore, and because the data card 16 does not comprise an "image sensor", applicant can see no reason why one would be motivated to incorporate an optical element onto Janiak's data card 16.

Claims 6-10 are believed to be allowable, at least, because they depend from claim 1.

Claim 11 is believed to be allowable because Janiak does not disclose a terminal for authenticating a user of the terminal, wherein the terminal comprises "an optical element" that forms an image of a biometric feature and directs the image "onto an image sensor within [a] biometric data card". Janiak does not disclose such an optical element, and would not be expected to disclose such an optical element, because Janiak does not disclose a biometric data card having an image sensor.

Claims 12-14, 17, 18 and 22 are believed to be allowable, at least, because they ultimately depend from claim 11.

Similarly to claim 1, claim 23 is believed to be allowable, at least, because Janiak does not disclose "a biometric data card including an image sensor".

Claims 24 and 25 are believed to be allowable, at least, because they depend from claim 23.

Claims 26-28, 30 and 33 are believed to be allowable, at least, for reasons similar to why claim 1 is believed to be allowable.

2. Rejection of Claims 19-21 and 32 Under 35 USC 103(a)

Claims 19-21 and 32 stand rejected under 35 USC 103(a) as being unpatentable over Janiak as applied to claim 11 above, and further in view of Angelo (U.S. Patent No. 6,182,892 B1).

With respect to claims 19-21 and 32, the Examiner asserts that Janiak teaches all of the elements of these claims, but for the claimed "illumination source", "illuminating" step, or "optical element". Applicant respectfully disagrees.


Claims 19-21 and 32 are believed to be allowable, at least, because each of these claims depends from claim 11 or claim 26, and because claims 11 and 26 are allowable for the reasons set forth in section 1 of these Remarks/Arguments.

Of note, Angelo *does* disclose a smart card having one or more optical elements incorporated therein. However, similarly to Janiak, Angelo does not disclose or suggest a biometric data card having an image sensor.

3. Conclusion

In light of the amendments and remarks provided herein, applicant respectfully requests the issuance of a Notice of Allowance.

Respectfully submitted,
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